

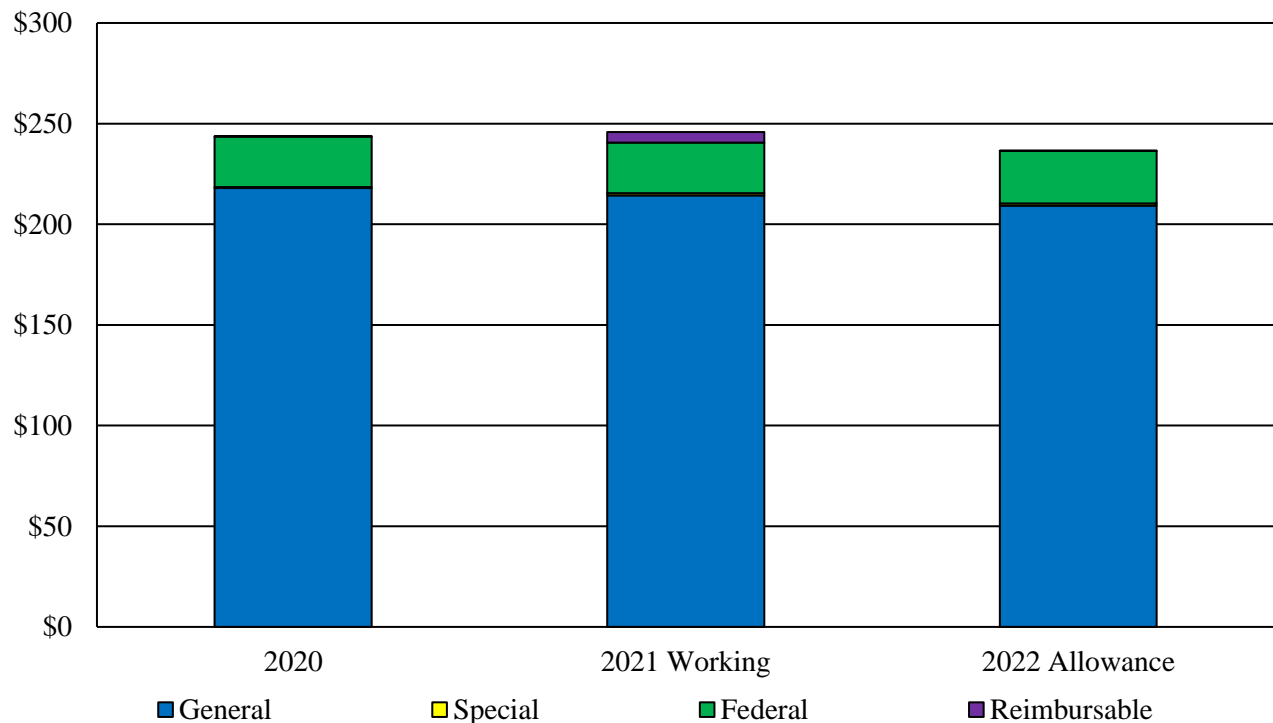
Q00T04
Division of Pretrial Detention and Services
Department of Public Safety and Correctional Services

Executive Summary

The Division of Pretrial Detention and Services (DPDS) is responsible for processing and managing the care, custody, and control of Baltimore City arrestees and detainees in a safe, humane, and secure environment. DPDS also supervises the operation of all Baltimore City Department of Public Safety and Correctional Services (DPSCS) facilities, some of which incarcerate a portion of the State-sentenced inmate population as well as federal detainees. DPDS also oversees the Pretrial Release Services Program, which interviews, investigates, and presents recommendations to Baltimore City courts concerning the pretrial release of individuals accused of crimes in Baltimore as well as supervises those released on personal recognizance.

Operating Budget Summary

Fiscal 2022 Budget Decreases \$9.3 Million, or 3.8%, to \$236.6 Million
(\$ in Millions)



Note: The fiscal 2021 appropriation includes deficiencies, planned reversions, and a general salary increase. The fiscal 2022 allowance includes contingent reductions and annualization of the fiscal 2021 general salary increase.

- Overtime expenses decline by \$2 million in fiscal 2022.
- Federal payments to DPSCS continue to decline at Chesapeake Detention Facility.

Key Observations

- ***DPSCS Still Lacks a Substance Use Disorder Treatment Provider:*** The procurement of a substance use disorder treatment provider was canceled at the final stage due to the COVID-19 emergency.
- ***Arrests and Commitments Decline, but Population in Custody Remains Steady:*** The overall downward trend of pretrial detainees continues in fiscal 2020, but defendants are staying in custody longer due to COVID-19 pandemic-related court delays.

Operating Budget Recommended Actions

1. Add budget bill language restricting funds in substance use disorder treatment subprograms to only those subprograms.
2. Adopt budget bill language restricting \$500,000 in Chesapeake Detention Facility funds pending renegotiation of agreement.
3. Add budget bill language restricting \$100,000 in funds from substance use disorder (SUD) treatment subprograms pending a report on the new SUD vendor and medication assisted treatment pilot program.

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Division of Pretrial Detention and Services
Department of Public Safety and Correctional Services

Operating Budget Analysis

Program Description

The Division of Pretrial Detention and Services (DPDS) is responsible for processing and managing the care, custody, and control of Baltimore City arrestees and detainees in a safe, humane, and secure environment. DPDS operates four detention facilities including the Baltimore Central Booking and Intake Center (BCBIC); the Metropolitan Transition Center (MTC); the Youth Detention Center (YDC); and the Chesapeake Detention Facility (CDF), which houses federal offenders for the U.S. Marshals Service. The Baltimore City Correctional Center (BCCC) and the Maryland Reception, Diagnostic, and Classification Center (MRDCC) are correctional facilities holding State prisoners that fall under the organization of DPDS due to their location. The Pretrial Release Services Program (PRSP) is also operated by DPDS and provides investigative and supervisory services regarding the pretrial release of individuals accused of crimes in Baltimore City.

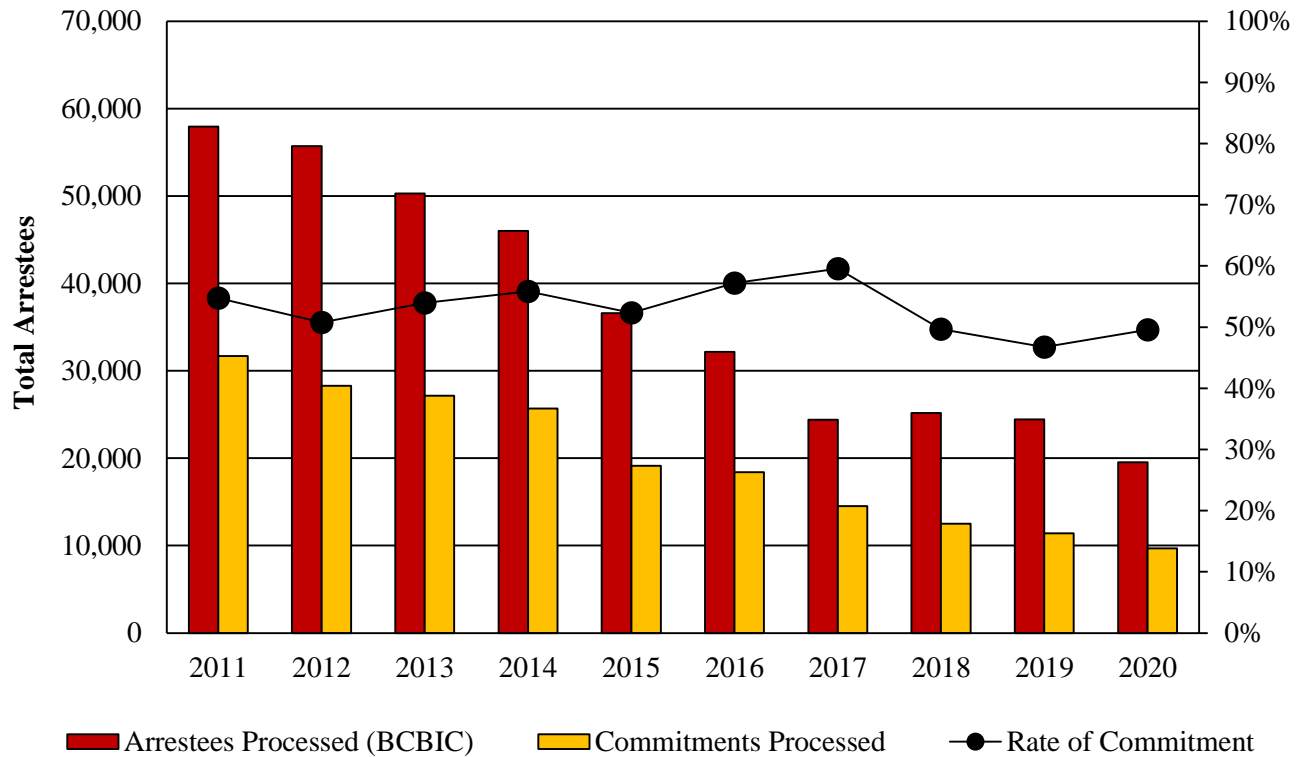
Performance Analysis: Managing for Results

1. Average Daily Population

In Baltimore City, all arrestees are processed at BCBIC. The past decade saw a continued decline in overall activity through BCBIC, though the number of arrestees processed (or booked) remained steady from fiscal 2017 to 2019. Otherwise, the number of individuals committed to pretrial detention (those held in jail) steadily declined by an average of 12% each year this decade, as can be seen in **Exhibit 1**. In fiscal 2020:

- arrestees processed declined by 4,921, or 20%;
- commitments declined by 1,740, or 15%; and
- the rate of commitment increased by 3 percentage points to 50%.

Exhibit 1
Arrestees Processed and Rate of Commitment
Fiscal 2011-2020



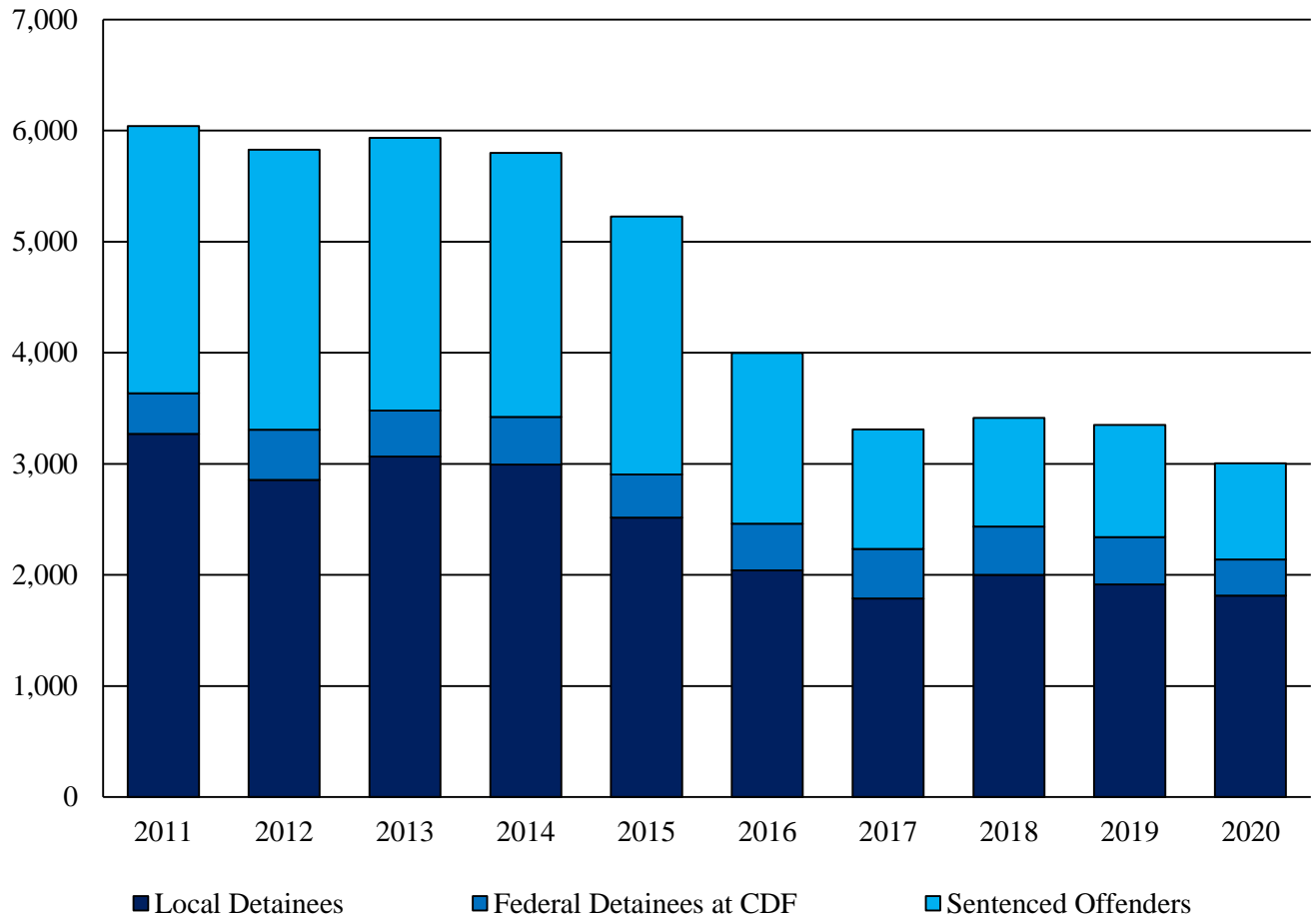
BCBIC: Baltimore Central Booking and Intake Center

Source: Department of Public Safety and Correctional Services

In addition to the pretrial detainees held in Baltimore City, DPDS holds sentenced offenders in custody. **Exhibit 2** shows the average daily population (ADP) of sentenced offenders, local pretrial detainees, and federal pretrial detainees in Baltimore City for the past 10 years. The decline from fiscal 2014 to 2017 is attributable to the closure of several facilities in the Baltimore City Pretrial Complex and an overall reduction in arrests made in Baltimore City.

Since fiscal 2017, the overall population under DPDS jurisdiction has not changed to a great extent. This is due, in part, to bail reform, which has resulted in more defendants released without bond but has also increased those held without bond. While overall commitments have not increased, those committed are being held for longer periods, partially attributable to an increase in individuals held without bail. Fewer defendants are being held for longer periods, resulting in a leveling out of ADP. The population declined in fiscal 2020 but not to the same extent as arrests or commitments because the rate of release slowed considerably during the COVID-19 pandemic.

Exhibit 2
ADP of Baltimore City Facilities
Fiscal 2011-2020



ADP: average daily population
CDF: Chesapeake Detention Facility

Source: Department of Public Safety and Correctional Services

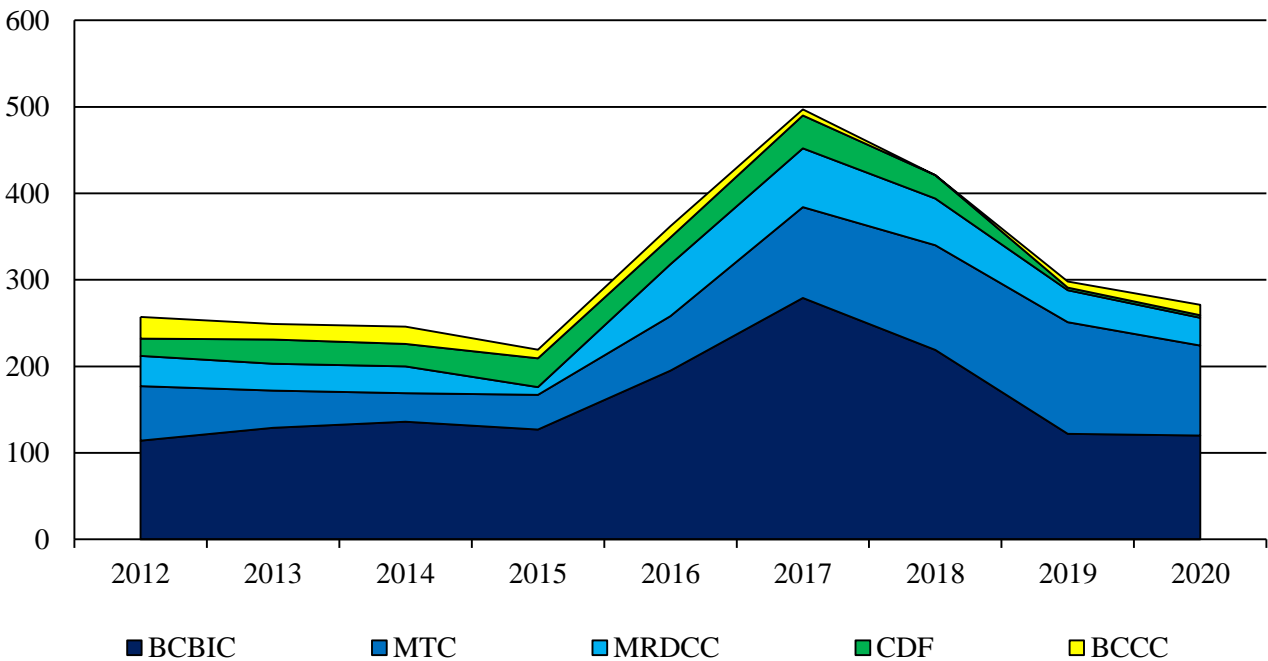
Baltimore Detainees Held Outside the City

There was an ADP of 1,815 Baltimore City detainees held during fiscal 2020. Of these, a portion were held outside of Baltimore City: an ADP of 370 men at the Jessup Correctional Institution; and an ADP of 6 women at the Maryland Correctional Institution for Women.

2. Assaults in DPDS Facilities

Assault rates in detention facilities for fiscal 2016, 2017, and 2018 were elevated above the Managing for Results goals. **Exhibit 3** shows the number of offender-on-offender assaults within BCBIC, MRDCC, MTC, CDF, and BCCC since fiscal 2012. It should be noted that the facilities that compose DPDS and the operations of each facility have changed over the time period. For instance, assaults spiked at MTC and MRDCC when they took on pretrial detainees.

Exhibit 3
Assaults in Baltimore City Facilities
Fiscal 2012-2020



BCBIC: Baltimore Central Booking and Intake Center
BCCC: Baltimore City Correctional Center
CDF: Chesapeake Detention Facility
MRDCC: Maryland Reception, Diagnostic, and Classification Center
MTC: Metropolitan Transition Center

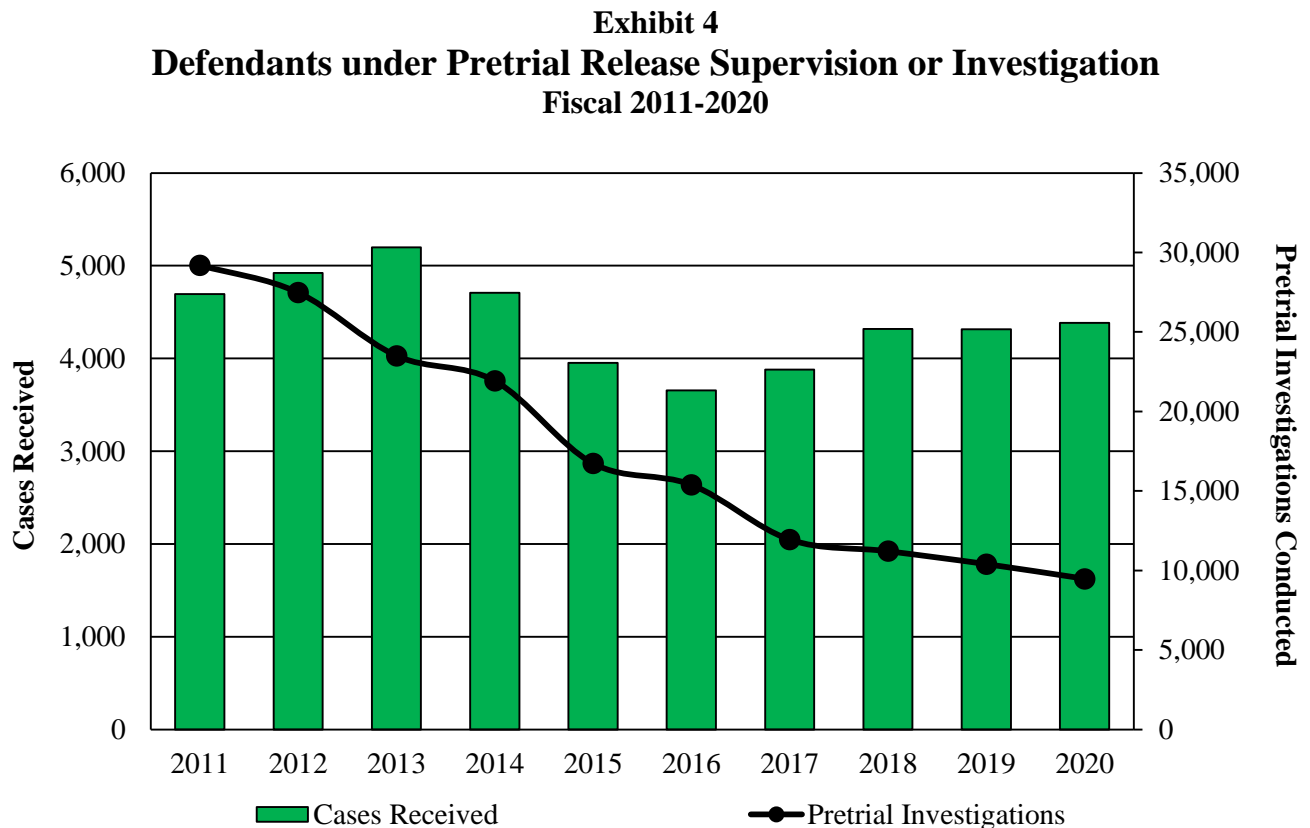
Source: Department of Public Safety and Correctional Services

There were 271 offender-on-offender assaults in these facilities in fiscal 2020, a reduction of 9% from fiscal 2019, and a reduction of 45% from the peak in fiscal 2017. The facilities with the highest rate of assaults per 100 ADP are MTC and BCBIC with 15.3 and 16.2 offender-on-offender assaults per 100 ADP.

3. Pretrial Release Services Program

PRSP interviews, investigates, and presents recommendations to Baltimore City courts concerning the pretrial release of individuals accused of crimes in Baltimore. PRSP also supervises defendants released on personal recognizance or conditional bail as ordered by the court.

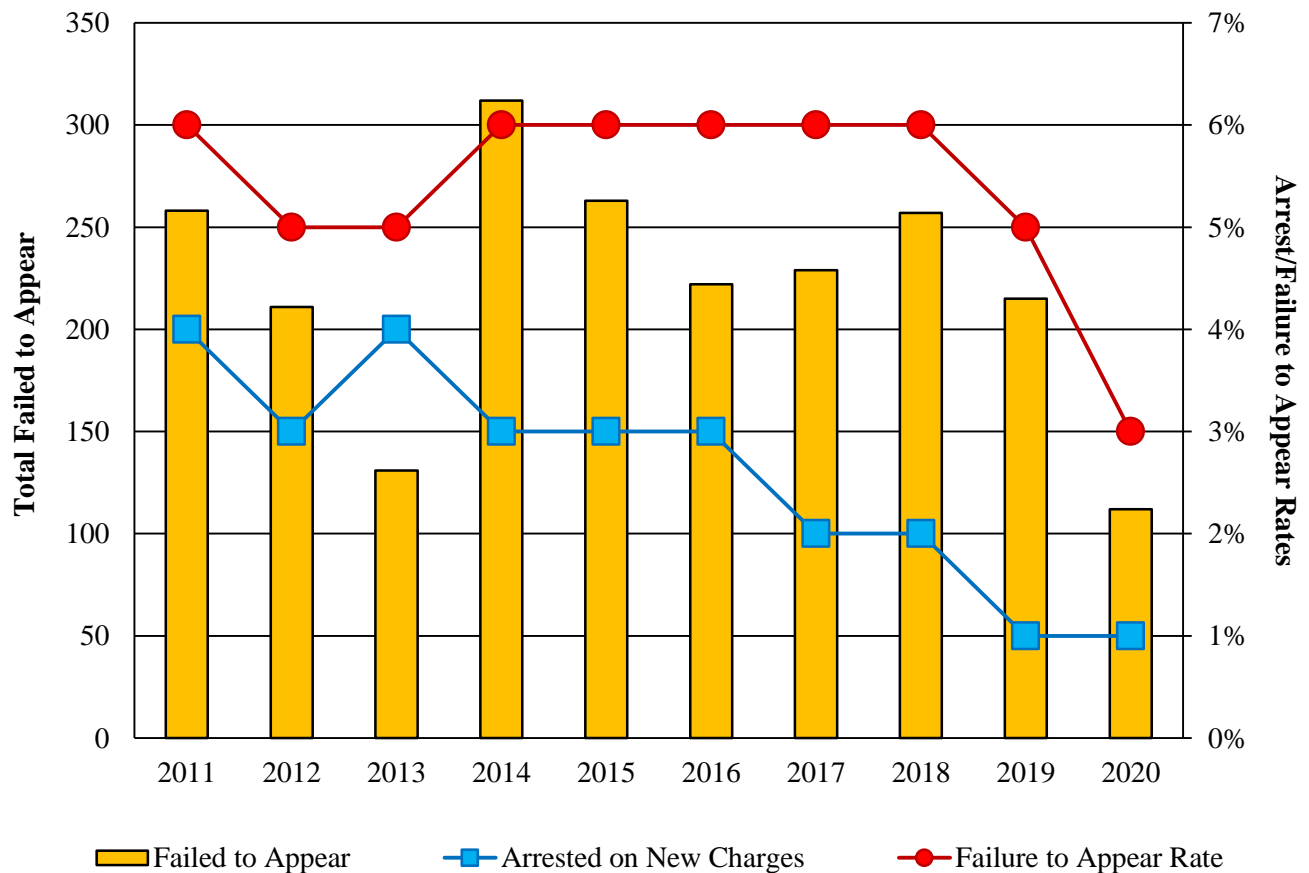
As arrest and detainee populations have decreased, the number of pretrial investigations have also decreased. The number of pretrial investigations held each year has not increased since fiscal 2008. The decline seen from fiscal 2011 to 2020 is 68%. Trends in pretrial investigations mirror the trends in overall arrests, which have steadily declined over the past decade. The number of cases received each year has remained relatively steady, only dropping 6.6% from fiscal 2011 to 2020 compared to the precipitous drop in pretrial investigations. There has been a year-over-year increase in cases received since the trough in fiscal 2016 related to judicial policy changes that encouraged the placement of offenders on pretrial supervision rather than monetary bail. The COVID-19 pandemic also increased placements due to safety concerns within the congregate setting of the Baltimore Pretrial Complex, reaching 4,385 cases received in fiscal 2020. **Exhibit 4** shows the decline in pretrial investigations along with the number of supervision cases received each year over the past decade.



Source: Department of Public Safety and Correctional Services

PRSP’s goal is to ensure that pretrial defendants released into the community comply with bail conditions, do not engage in criminal activity while on release, and appear for court when required. **Exhibit 5** shows that PRSP staff successfully met its goals of having 4% or less of its population arrested on new charges while under supervision and having 8% or less of the population fail to appear for required court dates in fiscal 2019 – just 1% of defendants were arrested on new charges and 3% (112 individuals) failed to appear in court. In fact, the number of those who failed to appear was reduced in half from fiscal 2019 to 2020, although the dramatic decrease may have been partially the result of court closures in the last quarter of the fiscal year. PRSP has met both of its goals throughout the last decade.

Exhibit 5
Defendants Arrested on New Charges and Failure to Appear Rates
Fiscal 2011-2020



Source: Department of Public Safety and Correctional Services

Fiscal 2020

CDF reverted \$1.25 million in federal funds due to falling inmate populations and underattainment of federal payments. Because the fixed costs of staffing CDF remain high, DPDS backfilled the federal fund shortfall with general funds from other facilities and programs.

Fiscal 2021

Proposed Deficiency

The fiscal 2022 budget includes a fiscal 2021 fund swap of \$5.1 million in reimbursable funds to replace general funds for correctional officer (CO) salaries and fringes. This recognizes federal Coronavirus Aid, Relief, and Economic Security Act funds distributed through the Maryland Department of Health to assist in the COVID-19 pandemic. A shortfall in dietary supplies also required \$75,000 in deficiencies.

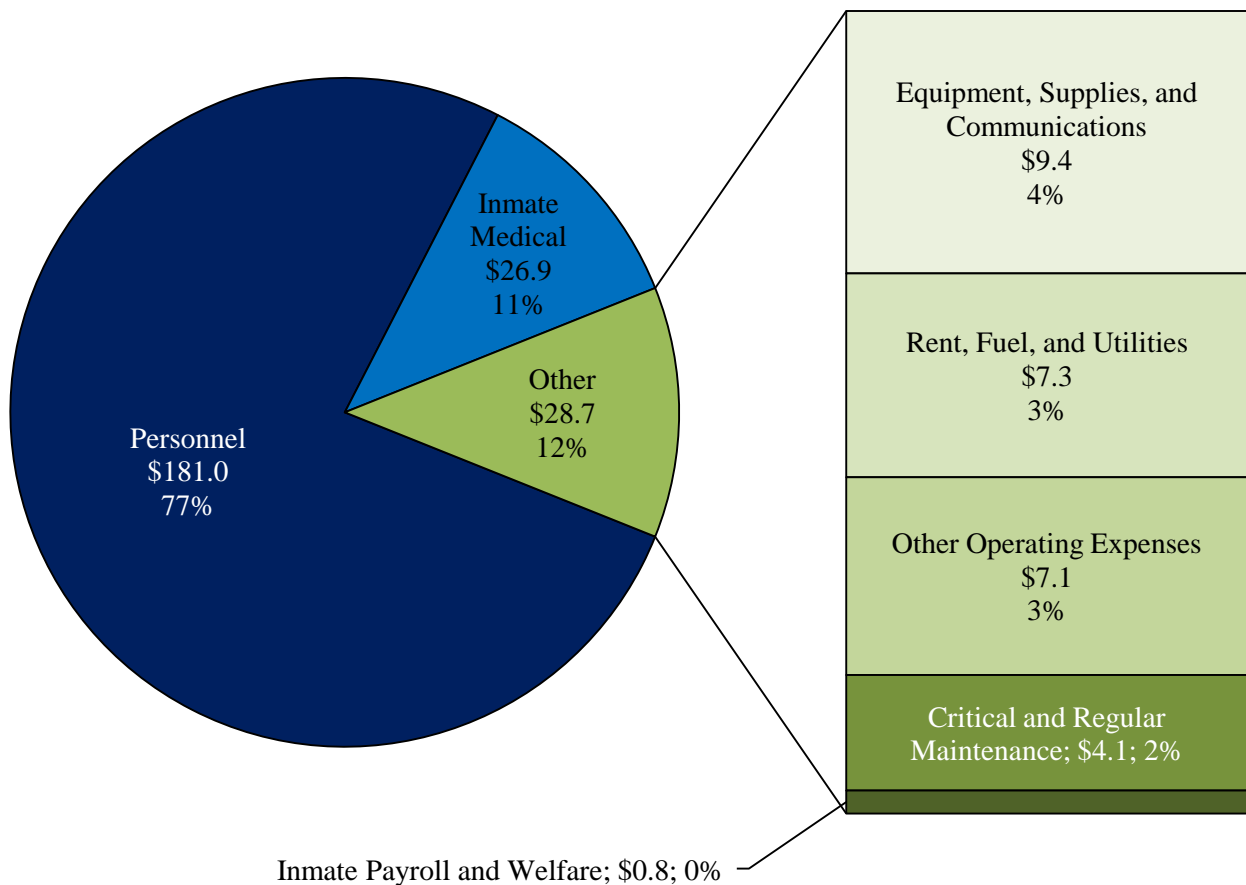
Cost Containment

To address the budgetary impacts of the COVID-19 pandemic, the Board of Public Works (BPW) made cost containment actions totaling \$413 million at the July 1, 2020 meeting. For DPDS, about \$280,000 in unemployment insurance payments, \$1 million in critical maintenance funding, and \$131,000 in Quality Case Review grants were removed.

Fiscal 2022 Overview of Agency Spending

The adjusted fiscal 2022 allowance for DPDS is about \$237 million. Three-quarters of agency spending are dedicated to personnel costs for the 1,861 regular positions. Inmate medical care, including mental health, dental, and pharmacy services, accounts for approximately \$27 million. Overall costs to operate facilities and provide services to inmates are \$29 million. **Exhibit 6** shows DPDS expenses by category.

Exhibit 6
Overview of Agency Spending
Fiscal 2022 Allowance
(\$ in Millions)



Note: Includes an annualized fiscal 2021 2% cost-of-living adjustment.

Source: Governor's Fiscal 2022 Budget Books; Department of Legislative Services

Proposed Budget Change

The fiscal 2022 allowance for the Department of Public Safety and Correctional Services (DPSCS) – Pretrial Detention and Services decreases by \$9.3 million from the working appropriation after accounting for all adjustments. **Exhibit 7** shows this change by item.

Exhibit 7
Proposed Budget
DPSCS – Division of Pretrial Detention and Services
(\$ in Thousands)

How Much It Grows:	<u>General Fund</u>	<u>Special Fund</u>	<u>Federal Fund</u>	<u>Reimb. Fund</u>	<u>Total</u>
Fiscal 2020 Actual	\$218,057	\$429	\$25,104	\$30	\$243,620
Fiscal 2021 Working Appropriation	214,397	1,048	25,128	5,312	245,885
Fiscal 2022 Allowance	<u>209,264</u>	<u>1,048</u>	<u>26,116</u>	<u>170</u>	<u>236,597</u>
Fiscal 2021-2022 Amount Change	-\$5,133	\$0	\$988	-\$5,143	-\$9,287
Fiscal 2021-2022 Percent Change	-2.4%		3.9%	-96.8%	-3.8%
Where It Goes:					<u>Change</u>
Personnel Expenses					
Employee and retiree health insurance					\$2,033
Net annualization of fiscal 2021 2% cost-of-living adjustment.....					1,286
Unemployment Insurance					268
Social Security					-53
Retirement contributions.....					-173
Regular earnings					-728
Workers' compensation premium assessment					-1,622
Overtime earnings.....					-2,019
Turnover adjustments					-2,775
Other Changes					
Contractual services					278
Equipment and supplies					131
Communications					-16
Inmate wages					-20
Contractual positions					-85
Travel and motor vehicles.....					-97
Dietary expenses					-302
Rent, fuel, and utilities.....					-338
Inmate medical care					-1,305
Critical maintenance projects.....					-3,750
Total					-\$9,287

DPSCS: Department of Public Safety and Correctional Services

Note: The fiscal 2021 appropriation includes deficiencies, planned reversions, and a general salary increase. The fiscal 2022 allowance includes contingent reductions and annualization of the fiscal 2021 general salary increase.

Personnel Expenses Decrease \$3.8 Million

While health insurance costs increase, workers' compensation insurance costs decline. The majority of other personnel spending objects decline. Overtime decreases by \$2 million, reflecting about 48 more COs employed by DPDS and lower inmate populations. Turnover adjustments also remove about \$2.8 million from the working appropriation to the allowance, reflecting a more realistic vacancy rate.

Operating Expenses Decrease \$5.5 Million

Inmate medical spending decreases by \$1.3 million, reflecting the new distribution of inmates across the various units of DPSCS as a result of COVID-19. Funding for critical maintenance projects appears to decline by \$3.75 million when comparing the working appropriation to the allowance. However, the up-to-date list of critical maintenance projects provided by DPSCS indicates that it intends to spend less than what is budgeted on DPDS projects in the current fiscal year. As a result, the true decrease in critical maintenance spending for the agency is approximately \$1.6 million as funds are redirected to other agencies within the department. **Exhibit 8** lists the projects as submitted in the budget compared to the actual planned usage as reported by DPSCS. The corresponding list of critical maintenance projects at correctional facilities can be found in the DPSCS – Corrections analysis.

Exhibit 8 Critical Maintenance Funding – Budgeted versus Planned Spending Fiscal 2021-2022

Fiscal 2021 Project List as Budgeted

<u>Facility</u>	<u>Description</u>	<u>Amount</u>
Central Booking and Intake Facility	Shower Stripping and replacement	\$1,000,000
Central Booking and Intake Facility	PLC Replacement/Door Controls	900,000
Central Booking and Intake Facility	Shower Stripping and replacement	440,000
Baltimore City Correctional Center	Hospital Airborne Isolation System	900,000
Metropolitan Transition Center	Medical Exam Rooms Renovations	900,000
Total	All projects	\$4,140,000

Fiscal 2021 Project List – Revised

Central Booking and Intake Facility	Roof Repairs	\$1,472,000
Central Booking and Intake Facility	Parking Garage Repairs.	96,000
Central Booking and Intake Facility.	Shower Repairs	50,000
Maryland Reception, Diagnostic, and Classification Center	Door Lock Replacement	96,000
Maryland Reception, Diagnostic, and Classification Center	Chiller Repairs	120,000
Metropolitan Transition Center	Grounds Building Electrical Work	196,000
Total	All projects	\$2,030,000

Source: Governor's Fiscal 2022 Budget Books; Department of Public Safety and Correctional Services

Personnel Data

	<u>FY 20</u>	<u>FY 21</u>	<u>FY 22</u>	<u>FY 21-22</u>
	<u>Actual</u>	<u>Working</u>	<u>Allowance</u>	<u>Change</u>
Regular Positions	2,011.60	1,863.60	1,860.60	-3.00
Contractual FTEs	<u>39.21</u>	<u>99.45</u>	<u>24.63</u>	<u>-74.82</u>
Total Personnel	2,050.81	1,963.05	1,885.23	-77.82

Vacancy Data: Regular Positions

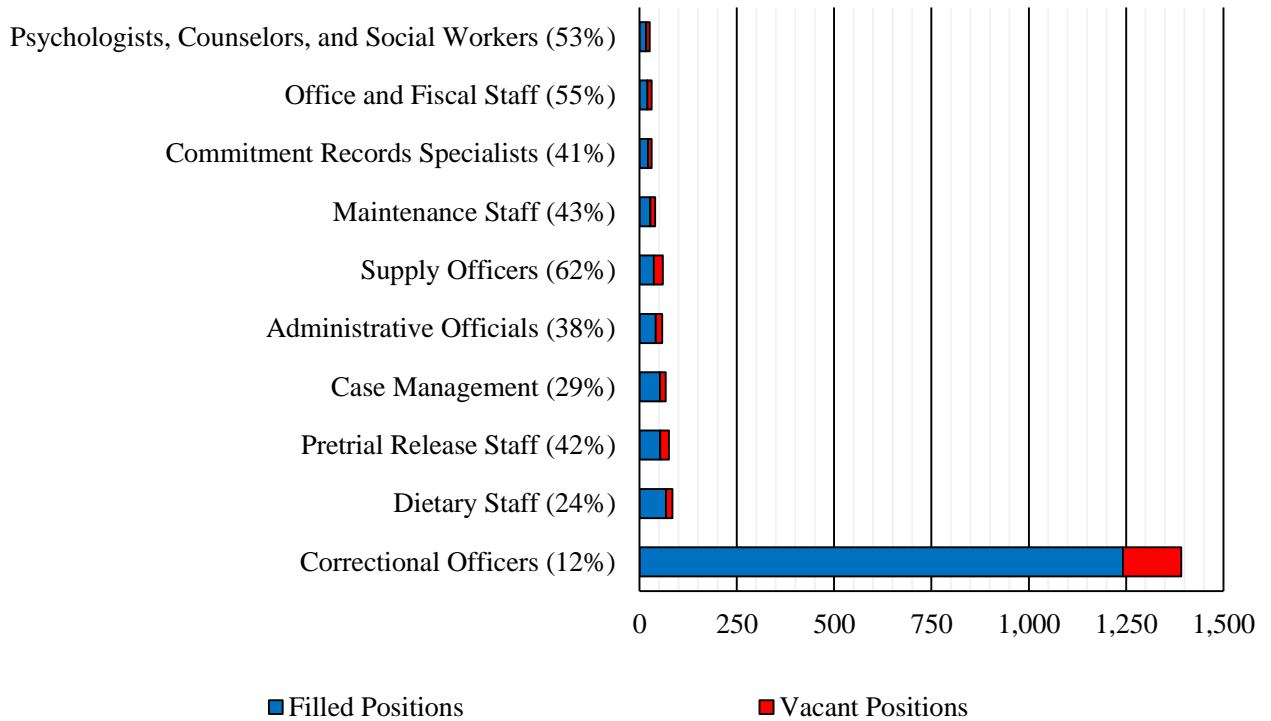
Turnover and Necessary Vacancies, Excluding New Positions	276.49	14.86%
Positions and Percentage Vacant as of 12/31/20	284.00	15.24%
Vacancies Above Turnover	7.51	

- The fiscal 2022 allowance reduces the regular position complement by 3 PINs due to the interagency transfer and reclassification of COs.
- Turnover expectancy is set at almost 15% for fiscal 2022. This requires about 276 positions to remain vacant throughout the fiscal year. Current vacancies total 284 as of January 2021. The turnover reduction from the working appropriation to the allowance created \$2.8 million in savings as the budget is realigned to actual vacancies.
- Contractual positions decrease by about 75 positions in the allowance year. However, the fiscal 2022 budget only reflects \$85,000 in savings because the working appropriation has a very high turnover expectancy for allowed contractual positions. Most of the allowed contractual positions for COs, correctional dietary officers, and correctional maintenance staff are not currently filled and are excluded from the fiscal 2022 allowance. These positions were no longer needed due to COVID-19 operational changes, improvements in facility staff hiring, and decreases in the sentenced inmate population in Baltimore City.

Vacancies

Positions within DPDS are 15.2% vacant as of January 2021. Vacancies are highest within the correctional supply officer series (62%), office and fiscal staff (55%), and mental health professionals and social workers series (53%). The most vacancies are within the CO series responsible for maintaining custody of offenders. DPDS is allowed 1,242 CO positions, but 150 are currently vacant, or 12%. **Exhibit 9** lists the programs with the highest vacancies in the division with their respective vacancy rates.

Exhibit 9
Vacancies by Classification
January 2021



Source: Department of Budget and Management

Issues

1. DPSCS Still Lacks Substance Use Disorder Treatment Provider

DPSCS has struggled since fiscal 2015 to procure a vendor for substance use disorder (SUD) screening and medication assisted treatment (MAT) for opioid use disorder.

Individuals who come into contact with Maryland’s prison system and the Baltimore City pretrial system disproportionately, and increasingly so, require SUD treatment services. Historically, over half of the detainees in the custody of DPDS are charged with drug possession, and about one-fifth self-report as drug users. DPSCS offers medically supervised withdrawal at intake and a variety of group- and individual-based addiction counseling services at most DPSCS facilities. There remains, however, drug usage inside facilities, which poses a danger to safety, operations, and rehabilitative efforts. In fiscal 2020, DPSCS officials discovered controlled dangerous substances nearly 1,700 times, totaling over 15,600 individual items. Random drug testing at facilities also resulted in a 19% positivity rate for fiscal 2020, up from 10% positivity rate in fiscal 2018 and 5% positivity rate in fiscal 2017.

Current SUD Treatment Options

DPDS provides each individual with a medical and mental health screening at intake that includes an SUD screening. Currently, methadone is the only medication offered for those diagnosed with an SUD. DPDS placed 693 pretrial individuals on methadone continuance in fiscal 2020 and placed 3 pretrial individuals on methadone initiation. Chapter 532 of 2019 requires the development of a comprehensive MAT pilot program at the pretrial complex in Baltimore City by January 2023. The legislation requires the division to offer two other types of MAT – buprenorphine and naltrexone – which do not require the long-term commitment to daily structured administration of the drug and may be preferable to those going in and coming out of temporary DPSCS custody.

Since calendar 2017, those leaving the Baltimore City Pretrial Complex may opt to visit the Project Connections at Re-Entry (PCARE) mobile treatment facility, located just outside of the facility. An image of the PCARE mobile facility is included in **Exhibit 10**.

Exhibit 10
PCARE Mobile Treatment Facility



PCARE: Project Connections at Re-Entry

Source: Behavioral Health Leadership Institute

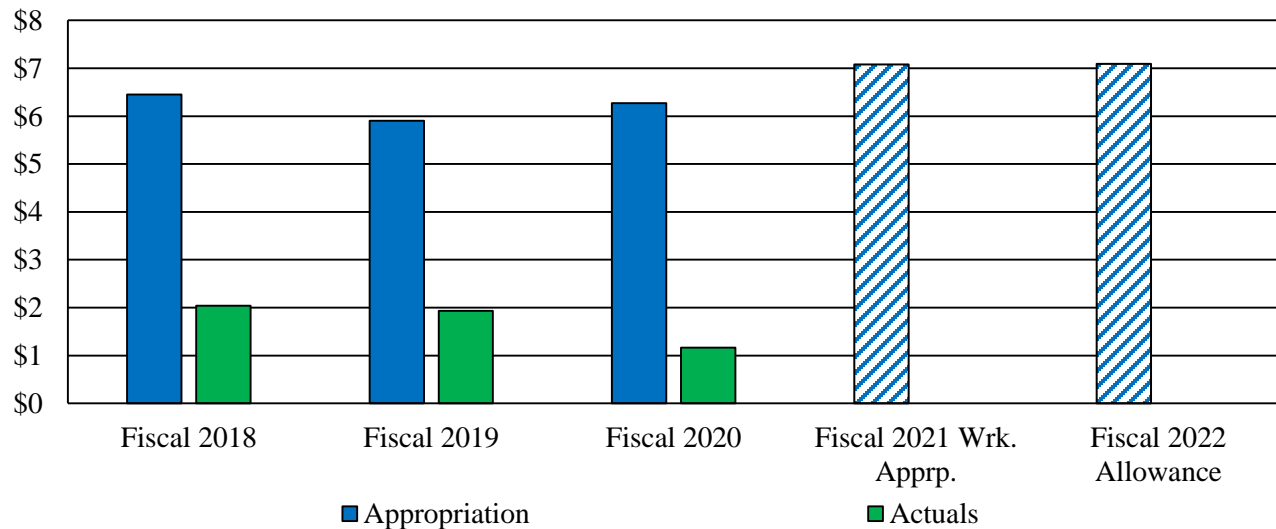
The purpose of the PCARE nonprofit program is to prevent overdose upon release from pretrial detention. Individuals who were screened at intake for an opioid use disorder may receive their first dose directly following release by visiting the mobile treatment facility. Those who wish to continue buprenorphine treatment may continue to visit the facility while in the community, bridging the gap between release and a stable living situation, so that the danger of overdose is minimized. While DPSCS facilitates the intake and eligibility determination process, PCARE is a nonprofit that operates without funding or staffing support from DPSCS. In fiscal 2020, 55 pretrial individuals were recommended for PCARE, while 34 individuals were confirmed to have initiated treatment within their first 48 hours of release.

SUD Treatment Spending

Exhibit 11 shows that actual DPSCS spending on SUD subprograms has reached only a third of the appropriation in recent years. Most of the spending is for existing personnel who provide mental health screenings and services. Exhibit 11 shows all spending in subprograms meant specifically to provide SUD treatment, including personnel. However, when looking solely at external contracts to provide comprehensive SUD treatment services, DPSCS spending decreased by 90% from fiscal 2013 to 2019. This is because, in the past several years, there were very few companies and organizations

who could satisfy the evolving set of program requirements. Each attempt at soliciting a vendor failed or was retracted during the years of low spending. DPSCS identified about \$4.7 million in fiscal 2021 that would go toward such a contract, and about the same amount is appropriated in fiscal 2022. The total funding going toward SUD contracts, SUD staff, and related expenses across DPSCS facilities is \$7.1 million in fiscal 2021 and 2022. While a portion of this is likely to be spent for SUD personnel already employed by the department, the amount dedicated to an outside vendor in fiscal 2021 is likely to be reverted due to the lateness of procurement attempts.

Exhibit 11
SUD Treatment Expenditures
Fiscal 2018-2022
(\$ in Millions)



SUD: substance use disorder

Note: Amounts include personnel, nonpersonnel, and contractual expenses across all SUD treatment subprograms in the Department of Public Safety and Correctional Services budget. Correctional facilities as well as pretrial detention facilities host qualifying programs.

Source: Governor's Fiscal 2022 Budget Books; Department of Legislative Services

Past Actions

During the 2020 session, the Department of Legislative Services (DLS) recommended a decrease to the DPSCS SUD treatment appropriation for fiscal 2021 due to the lack of departmental spending in this area. However, DPSCS closed its request for proposals (RFP) at the beginning of February 2020 for an SUD treatment services contract, expecting to select a vendor from the responses to begin work in July 2020. As such, the budget committees:

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- restricted \$100,000 in general funds pending a report submission on the new vendor and treatment services contract;
- approved the SUD funding level appropriated in the Governor’s allowance for treatment; and
- restricted the entire SUD funding amount so that it would only be used for substance use disorder services and not reallocated to other spending shortfalls.

Fiscal 2020 Solicitation Was Canceled

At the June 17, 2020 BPW meeting, DPSCS submitted a comprehensive SUD treatment contract at a value of approximately \$48.1 million over five years. The services provided would include expanded assessment and treatment options for those with an SUD as well as operation of five therapeutic communities at Division of Correction facilities. However, the department chose to withdraw the item, reject all proposals, and cancel the solicitation due to the determination that the scope of services set forth in the original solicitation was no longer feasible within the new landscape of the COVID-19 health emergency. It became apparent that the need for social distancing protocols and resources, as well as inclusion of the Baltimore City Pretrial Complex MAT pilot program, necessitated a new solicitation and contract.

DPSCS reported in October 2020 that plans were in place to issue a new RFP in November 2020, which would put the procurement exactly one year behind the previous schedule. No solicitation, however, has been released as of February 2021. Assuming a solicitation is released this spring, and using the timeline of the previous procurement, DPSCS could select a new vendor to begin services in the second quarter of fiscal 2022. If this is the case, it remains unclear how DPSCS will utilize the \$4.7 million in general funds allocated for contractual SUD treatment services in fiscal 2021.

Future Steps

The ongoing COVID-19 pandemic has delayed the DPSCS procurement of a comprehensive SUD treatment vendor by at least one year. The cancellation of the previous procurement, while seemingly necessary, maintains the status quo of minimal SUD treatment services available to offenders in need. The updated RFP is due for imminent release; however, using the same timeline as the previous solicitation attempt, the department is not likely to issue an award until summer 2021, and a contract start date may not occur until the second quarter of fiscal 2022.

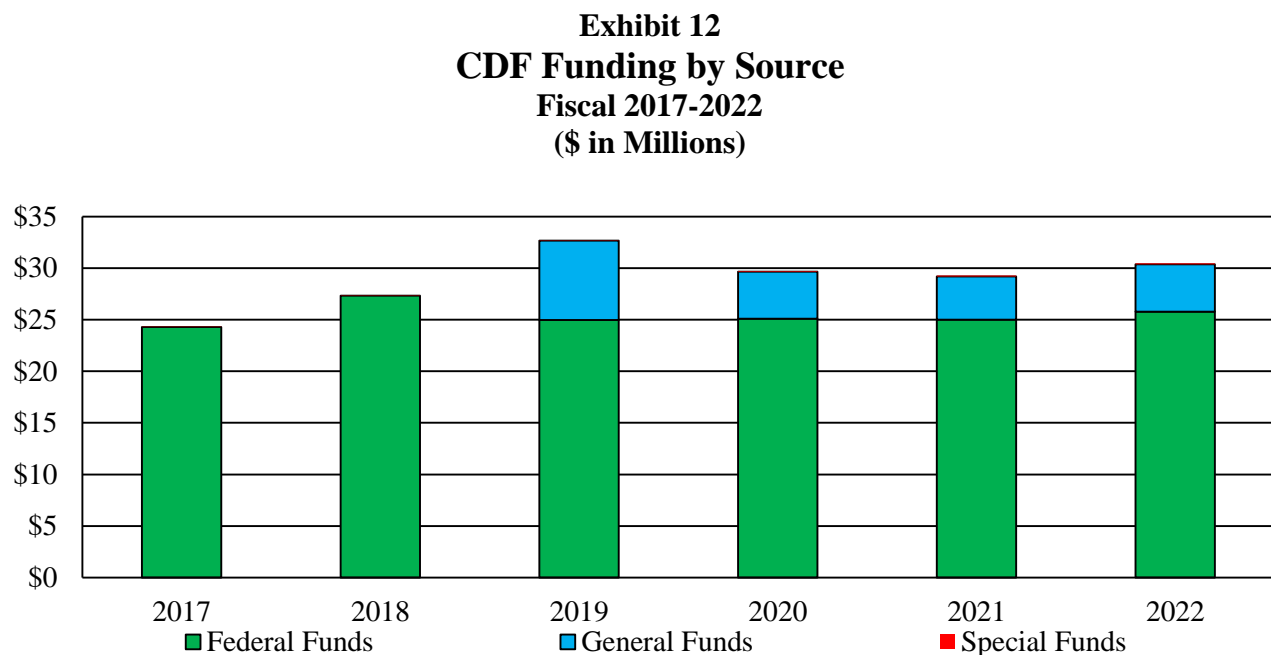
Without an active solicitation, DPSCS was unable to provide the information requested in the restrictive fiscal 2021 Budget Bill language regarding the identification of the new vendor, along with programmatic and spending information for the new SUD treatment services contract. The \$100,000 in restricted SUD funds were not released, though DPSCS may resubmit the requested information before fiscal year end if a contract is procured. DLS remains doubtful that DPSCS will use or need the entire appropriation in this area due to the continued lack of an SUD treatment provider. Despite this, DLS concurs with the Governor’s allowance for SUD programs in the overall DPSCS budget so that a solicitation may move forward.

This issue remains important to monitor, however, as the continued limited SUD treatment options hinder the ability for DPDS and DPSCS as a whole to meet the needs of their inmates. **Therefore, DLS recommends that two actions be taken:**

- **Add budget bill language to restrict the entire \$7.1 million fiscal 2022 appropriation for SUD treatment services so that it may only be used in those subprograms.**
- **Add budget bill language to withhold \$100,000 in SUD treatment services funds until DPSCS submits a report on the new substance use disorder treatment services provider and the MAT Pilot Program in the Baltimore City Pretrial Complex.**

2. Chesapeake Detention Facility Funding

DPSCS entered a cooperative agreement with the U.S. Department of Justice (DOJ) in 2010 to operate the former Maryland Correctional Adjustment Center as a federal detention facility on behalf of the U.S. Marshals Service for 15 years until December 2025. In return, the federal government provided \$20 million in capital funds to build the Dorsey Run Correctional Facility (37% of total funds required for the project) and agreed to reimburse DPSCS a per diem rate for every inmate held at the renamed CDF. The per diem reimbursement is increased from time to time based on a scale and schedule that DPSCS and DOJ agreed to in the cooperative agreement. **Exhibit 12** shows CDF funding since 2017.



CDF: Chesapeake Detention Facility

Source: Fiscal 2018–2021 Governor’s Budget Books; Department of Legislative Services

While DPSCS benefited from the partnership initially, the per diem reimbursement is no longer sufficient to support the maintenance, medical care, and personnel needs of the facility. In fiscal 2019, DPSCS diverted \$7.7 million in general funds from other programs to fill the federal fund shortfall at CDF. In fiscal 2020, DPSCS diverted \$1.7 million in general funds from other programs in addition to the legislative appropriation of \$2.8 million. The fiscal 2021 working appropriation includes \$4.2 million, and the fiscal 2022 allowance includes \$4.6 million in general funds. This totals \$21 million in unanticipated general fund expenses between fiscal 2019 and 2021, exceeding the \$20 million capital appropriation that originally made the agreement attractive to the State. By the conclusion of the cooperative agreement in fiscal 2026, the State will have subsidized the federal government by a significant amount.

Operating CDF draws valuable staff away from State correctional and pretrial facilities. If CDF were operated as a pretrial facility, DPSCS could improve the delivery of services and create the medical space needed to comply with the *Hogan v. Duvall* settlement agreement as well as carry out Chapter 532. Also, while DPSCS as a whole experienced a crisis in maintaining adequate CO staffing levels in recent years, CDF is always staffed at a high rate to satisfy federal requirements. If the 213 positions at CDF were reallocated within the DPDS, those facilities would cut their vacancy rates from 15% to 5% and lower their overtime costs.

DPSCS Negotiation Efforts

Due to the monetary and administrative issues associated with operating this facility, the budget committees directed DPSCS to renegotiate the terms of the cooperative agreement by restricting \$1 million in fiscal 2021 general funds. If successful, renegotiation efforts could result in reduced costs to the State by negotiating a higher reimbursement rate, a lower staffing threshold, an earlier conclusion date, or additional capital construction grants.

DPSCS leadership reached out to the Intergovernmental Agreement Branch in the U.S. Marshals Service on September 15, 2020, to meet with the Office of the Federal Detention Trustee (OFDT) and begin renegotiations to the CDF cooperative agreement. DOJ did not respond to the first letter, so DPSCS sent a second letter on October 19, 2020. The Intergovernmental Agreement Branch notified DPSCS that it must complete an extensive application to renegotiate a per diem agreement. DPSCS rejected that requirement, stating that the current cooperative agreement is a unique agreement that should not be treated as a simple per diem agreement. DPSCS reports that “the electronic application is being reviewed for completion” while it awaits a response by DOJ and will continue efforts to meet with OFDT.

While DPSCS and the federal government have not met thus far to discuss the terms of the cooperative agreement, and the federal government has not indicated any interest in doing so, the \$1 million in general funds were released in recognition of the attempts made by DPSCS. Due to the ongoing nature of this issue, DLS recommends that additional action be taken by the budget committees in fiscal 2022.

DLS recommends the addition of budget bill language restricting \$500,000 in CDF general funds until DPSCS submits a report detailing efforts to renegotiate the agreement, the response

from the U.S. Marshals Service, ways that DPSCS can reduce the reliance on general funds for this facility, and future plans for the facility following the conclusion of the agreement.

Operating Budget Recommended Actions

1. Add the following language:

Further provided that \$7,091,738 of the appropriation for substance use disorder (SUD) treatment services subprograms may only be expended in those subprograms. Funds may be transferred between SUD treatment services subprograms throughout the Department of Public Safety and Correctional Services. Funds unexpended for this purpose at the end of the fiscal year shall revert to the General Fund or be canceled.

Explanation: Chapter 532 of 2019 directs the Department of Public Safety and Correctional Services (DPSCS) to create a medication assisted treatment program within the confines of the Baltimore Pretrial Complex as well as apply for funding to support local detention centers required to create its own treatment programs. DPSCS has historically underspent the appropriation for SUD services and does not have a contract in place for these services. This language ensures that funds for SUD services will only be spent for that purpose or shall revert to the General Fund or be canceled at the end of the fiscal year.

2. Add the following language to the general fund appropriation:

, provided that \$500,000 of this appropriation may not be expended until the Department of Public Safety and Correctional Services conducts a review of the agreement to operate the Chesapeake Detention Facility as a federal facility, reaches out to the U.S. Marshals Service to renegotiate the agreement, and submits a report on these efforts to the budget committees. The report shall include results of efforts to renegotiate the agreement, options to reduce the reliance on general funds for this facility (including the consequences of exiting the agreement prior to expiration), and plans for the facility following the conclusion of the agreement. The report shall be submitted by December 1, 2021, and the budget committees shall have 45 days to review and comment. Funds restricted pending the receipt of a report may not be transferred by budget amendment or otherwise to any other purpose and shall revert to the General Fund if the report is not submitted to the budget committees.

Explanation: The Chesapeake Detention Facility (CDF) is used as a federal detention center for the U.S. Marshals Service but is operated by the Division of Pretrial Detention and Services (DPDS). DPDS received \$20 million as supplemental funding to construct the Dorsey Run Correctional Facility and receives a contractually negotiated per diem payment for each inmate housed. The per diem rate is no longer sufficient to support CDF operations, resulting in the State subsidizing the detainment of federal offenders. This language directs DPDS to revisit the federal agreement, seek ways to increase the per diem rate, and report on these efforts to the General Assembly. The report will include a history of the Department of Public Safety and Correctional Services (DPSCS) actions regarding the contract and address plans for CDF usage following the conclusion of the contract.

Information Request	Author	Due Date
CDF renegotiation report	DPSCS	December 1, 2021

3. Add the following language:

, provided that \$100,000 of this appropriation made for the purpose of a substance use disorder (SUD) treatment services subprogram may not be expended until the Department of Public Safety and Correctional Services (DPSCS) submits a report on the new SUD treatment services provider and the Medication Assisted Treatment (MAT) Pilot Program in the Baltimore City Pretrial Complex. The report shall include a description of the new vendor and SUD treatment services that are provided at DPSCS facilities, a description of actions taken to establish an MAT Pilot Program at the Baltimore City Pretrial Complex, and a description of the planned use of restricted SUD treatment funds. The report shall be submitted by November 1, 2021, and the budget committees shall have 45 days from the date of receipt of the report to review and comment. Funds restricted pending the receipt of a report may not be transferred by budget amendment or otherwise to any other purpose and shall revert to the General Fund if the report is not submitted to the budget committees.

Explanation: Chapter 532 of 2019 directs DPSCS to create an MAT program within the confines of the Baltimore Pretrial Complex as well as apply for funding to support local detention centers required to create their own treatment programs. DPSCS has historically underspent the appropriation for SUD services and does not have a contract in place for these services. This language allows the budget committees to monitor the provision of live-saving and life-altering treatment services by DPSCS and the proper usage of allocated funds. This language restricts \$100,000 of the \$1.2 million general fund appropriation meant for SUD treatment at the Baltimore Central Booking and Intake Center.

Information Request	Author	Due Date
SUD and MAT report	DPSCS	November 1, 2021

Appendix 1
2020 Joint Chairmen's Report Responses from Agency

The 2020 *Joint Chairmen's Report* (JCR) requested that the Division of Pretrial Detention and Services prepare one report. Electronic copies of the full JCR response can be found on the Department of Legislative Services Library website.

- ***Chesapeake Detention Facility Federal Funding Report:*** The Department of Public Safety and Correctional Services (DPSCS) provided information on recent attempts to modify the agreement with the U.S. Marshals Service to operate the Chesapeake Detention Facility (CDF). CDF is no longer funded adequately through federal payments, and attempts by DPSCS to increase these payments through negotiation were inconclusive. Further time is needed to observe the results of these efforts. More information can be found in Issue 2 of this analysis.

Appendix 2
Object/Fund Difference Report
Department of Public Safety and Correctional Services – Division of Pretrial Detention and Services

<u>Object/Fund</u>	<u>FY 20 Actual</u>	<u>FY 21 Working Appropriation</u>	<u>FY 22 Allowance</u>	<u>FY 21 - FY 22 Amount Change</u>	<u>Percent Change</u>
Positions					
01 Regular	2,011.60	1,863.60	1,860.60	-3.00	-0.2%
02 Contractual	150.87	99.45	24.63	-74.82	-75.2%
Total Positions	2,162.47	1,963.05	1,885.23	-77.82	-4.0%
Objects					
01 Salaries and Wages	\$ 184,276,751	\$ 183,704,964	\$ 178,637,179	-\$ 5,067,785	-2.8%
02 Technical and Spec. Fees	1,808,561	660,344	575,677	-84,667	-12.8%
03 Communication	592,469	632,757	616,627	-16,130	-2.5%
04 Travel	8,205	13,439	11,889	-1,550	-11.5%
06 Fuel and Utilities	13,994,884	7,290,888	6,967,394	-323,494	-4.4%
07 Motor Vehicles	426,430	581,034	485,503	-95,531	-16.4%
08 Contractual Services	32,252,703	37,623,395	36,645,507	-977,888	-2.6%
09 Supplies and Materials	8,806,195	8,769,013	8,629,667	-139,346	-1.6%
10 Equipment – Replacement	359,369	136,570	129,470	-7,100	-5.2%
11 Equipment – Additional	244,739	2,500	2,500	0	0%
12 Grants, Subsidies, and Contributions	462,832	842,974	822,800	-20,174	-2.4%
13 Fixed Charges	243,348	336,739	322,206	-14,533	-4.3%
14 Land and Structures	143,380	4,140,000	390,000	-3,750,000	-90.6%
Total Objects	\$ 243,619,866	\$ 244,734,617	\$ 234,236,419	-\$ 10,498,198	-4.3%
Funds					
01 General Fund	\$ 218,056,581	\$ 218,503,718	\$ 207,180,609	-\$ 11,323,109	-5.2%
03 Special Fund	429,059	1,047,714	1,047,714	0	0%
05 Federal Fund	25,104,162	25,013,185	25,838,506	825,321	3.3%
09 Reimbursable Fund	30,064	170,000	169,590	-410	-0.2%
Total Funds	\$ 243,619,866	\$ 244,734,617	\$ 234,236,419	-\$ 10,498,198	-4.3%

Note: The fiscal 2021 appropriation does not include deficiencies, targeted revenues, or across-the-board reductions. The fiscal 2022 allowance does not include contingent reductions or cost-of-living adjustments.

Appendix 3
Fiscal Summary
Department of Public Safety and Correctional Services – Division of Pretrial Detention and Services

<u>Program/Unit</u>	<u>FY 20 Actual</u>	<u>FY 21 Wrk Approp</u>	<u>FY 22 Allowance</u>	<u>Change</u>	<u>FY 21 - FY 22 % Change</u>
01 Chesapeake Detention Facility	\$ 29,725,864	\$ 29,275,515	\$ 30,462,524	\$ 1,187,009	4.1%
02 Pretrial Release Services	6,138,708	5,540,157	6,015,536	475,379	8.6%
04 Central Booking and Intake Facility	71,064,310	73,112,683	70,415,865	-2,696,818	-3.7%
05 Baltimore Pretrial Complex	19,649,878	17,175,367	15,767,619	-1,407,748	-8.2%
06 Maryland Reception Diagnostic and	37,753,689	38,032,835	35,374,404	-2,658,431	-7.0%
07 Baltimore City Correctional Center	16,098,745	18,038,745	15,505,142	-2,533,603	-14.0%
08 Metropolitan Transition Center	60,682,313	61,347,981	58,610,721	-2,737,260	-4.5%
09 General Administration	2,506,359	2,211,334	2,084,608	-126,726	-5.7%
Total Expenditures	\$ 243,619,866	\$ 244,734,617	\$ 234,236,419	-\$ 10,498,198	-4.3%
General Fund	\$ 218,056,581	\$ 218,503,718	\$ 207,180,609	-\$ 11,323,109	-5.2%
Special Fund	429,059	1,047,714	1,047,714	0	0%
Federal Fund	25,104,162	25,013,185	25,838,506	825,321	3.3%
Total Appropriations	\$ 243,589,802	\$ 244,564,617	\$ 234,066,829	-\$ 10,497,788	-4.3%
Reimbursable Fund	\$ 30,064	\$ 170,000	\$ 169,590	-\$ 410	-0.2%
Total Funds	\$ 243,619,866	\$ 244,734,617	\$ 234,236,419	-\$ 10,498,198	-4.3%

Note: The fiscal 2021 appropriation does not include deficiencies, targeted revenues, or across-the-board reductions. The fiscal 2022 allowance does not include contingent reductions or cost-of-living adjustments.